



## POLICE DEPARTMENT

December 29, 2009

MEMORANDUM: Police Commissioner

RE: Police Officer Leonard Dyce  
Tax Registry No. 915658  
Transit District 30  
Disciplinary Case Nos. 84475/08 & 84623/08  
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The above-named member of the Department appeared before me on October 22, 2009, charged with the following:

Disciplinary Case No. 84475/08

1. Said Police Officer Leonard Dyce, assigned to Transit District 30, while performing Subway Station Overtime Platform Coverage, on or about August 28, 2007, was off-post without authority, permission or necessity, in that Officer Dyce was one train station away from his assigned post conducting personal business.

P.G. 203 05 Page 1, Paragraph 2 – PERFORMANCE ON DUTY

2. Said Police Officer Leonard Dyce, assigned to Transit District 30, while performing Subway Station Overtime Platform Coverage, on or about October 26, 2007, failed to document his taking twenty (20) minutes personal time in his activity log as required.

P.G. 206-03 Page 1, Paragraph 6 -- VIOLATIONS

3. Said Police Office Leonard Dyce, assigned to Transit District 30, while on-duty, on or about November 1, 2007, failed to properly document in his activity log an incident involving an MTA employee which necessitated Officer Dyce leaving his post in order to investigate.

P.G. 206 03 Page 1, Paragraph 6 VIOLATIONS

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Disciplinary Case No. 84623/08

1. Said Police Officer Leonard Dyce, assigned to Transit District 30, on or about June 23, 2008, was off post for approximately one (1) hour without authority, permission or necessity, in that Officer Dyce entered a Department vehicle while on-duty and proceed back to his precinct.

P.G. 203-05 Page 1, Paragraph 2 PERFORMANCE ON DUTY

2. Said Police Officer Leonard Dyce, assigned to Transit District 30, on or about June 23, 2008, made false activity-log entries in that Officer Dyce recorded that he was reassigned to RMP 30-A, which was not true.

P.G. 203-10 Page 1, Paragraph 5 – PROHIBITED CONDUCT

3. Said Police Officer Leonard Dyce, assigned to Transit District 30, on or about June 23, 2008, made false or misleading statements to a supervisor in that Officer Dyce told said supervisor that Sergeant Schneiweis authorized his reassignment to RMP 30-A, which was not true.

P.G. 203 10 Page 1, Paragraph 5 – PROHIBITED CONDUCT

The Department was represented by Daniel Mauer, Esq., Department Advocate's Office, and the Respondent was represented by John Tynan, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject Charges and Specifications. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having Plead Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

The Respondent testified in his own behalf in mitigation of his guilty plea.

The Respondent is a 14-year member of the Department currently assigned to Transit District 30, which is located at the Hoyt and Schermerhorn Street station in Brooklyn. His duties involve performing train patrol or being assigned to a particular station. Being assigned to a train, which he called "a letter line," entails going "from one end of the command to the next," on that specific train. When the train stops at each respective stop along the line, it is his responsibility to check and make sure that there is no problem in each of those stations. Basically, he is not continually moving on the train but using the train to go from one station to the next, within the line, so that he can check those stations for any problems. When he is assigned to one specific station, that is the only station he is responsible for during that assignment.

Disciplinary Case No. 84475/08

Specification No. 1

The Respondent testified that on August 28, 2007, he was assigned to work overtime platform coverage. Prior to learning that he had to work overtime, he had made plans to be with his daughter. He stated that his then [REDACTED] daughter was going out of town and he was going to meet her at [REDACTED] and go into the city with her. He said he learned that he had to work overtime when he was about to sign out from his regular tour. The Respondent stated that, at that point he was not able to contact his daughter due to the fact that she did not have a cell phone. He stated that his overtime assignment consisted of covering the Borough Hall station. In order to get in touch with his daughter, he "had to walk over to the location that we agreed on." He stated that the Jay Street station was one block from where he was assigned and once he got there he was there for approximately 15 minutes.

The Respondent testified that after he spoke to his daughter, he went back to the Borough Hall station. He admitted that he was off-post during the entire time that he was with his daughter. The Respondent did not radio into his command to say that he needed to take some personal time to go and talk to his daughter.

Specification No. 2

The Respondent testified that on October 26, 2007, he was having a migraine headache. He said he has suffered from migraine headaches for approximately ten years and is required to take medication for them. On this morning day, he began having a headache, prior to going to work. He stated that he has never called in sick because of the effects of the migraine headaches.

The Respondent testified that when he worked his regular tour, "the headache was bearable." That day he was also required to work overtime and the pain from the headache increased during that time. The Respondent stated that in order to reduce the pain, he went into a room to relax for a few minutes. He stated that "each station has like a room for employees that they go in and sit down, or if they are going to eat their lunch or whatever, they go inside there." The room he entered was in the Lawrence Street station. The Respondent stated that he did not make a radio transmission to District 30 concerning his condition nor did he make a request to take personal time.

The Respondent stated that he was in the room for approximately 20 to 25 minutes. He stated that there were no complaints concerning that there police officers available to take police action on the station, because "due to the fact that the clerk knew where I was, so if there was a problem, you know, they could get me."



Specification No. 3

The Respondent stated that on November 1, 2007, he had an occasion to observe someone he initially thought committed an infraction at the Hoyt and Schermerhorn Street Station. He stated that he was on the northbound platform when he saw an individual walk from one car to the next, while the train was in the station, noting that this was in violation of Transit Authority's rules and regulations. The Respondent stated that he stepped into the train to pull the individual off but the conductor had closed the doors with him inside the train. He stated that he was taken to the next station which was the Jay Street station and at that point, he confronted the individual, who then showed him a Metropolitan Transit Authority (MTA) pass. Based on the individual showing him the identification, he did not issue the man a summons.

The Respondent stated that he did not make a memo book entry concerning what he observed nor of the stop of the person he conducted. He did not fill out a UF-250 stop and frisk report, because he did not "touch the individual." He stated that the total encounter lasted "about a minute or two." He stated that he did not make any radio transmission to District 30, to let them know that he was off-post while involved in a possible investigation.

Disciplinary Case No. 84623/08Specification Nos. 1, 2, and 3

The Respondent testified that on June 23, 2008, he was working a 0705 x 1440 tour of duty. His initial assignment that day was for the Jay Street complex. During the course of that day, he left the station and entered into a radio motor patrol car (RMP), that was assigned to Transit District 30. The RMP was occupied by Police Officer Jonathan

Miller and Officer Ishrak. When asked why he went to the RMP at that time, he stated "It was hot in the station, and I knew they were up there, so I went into the car to cool down." He stated that he did not make a radio transmission to the base to ask for either personal time or to leave the station. He explained that "when you go on a personal, you don't have to call the command about that."

Subsequent to being in the car he was confronted by his supervisor, Lieutenant Tolantino, whose office at the time was located in the MTA building on Livingston Street and Boerum Place in Brooklyn. His office was two blocks from where the Respondent was located in the car. When Tolantino confronted him, the Respondent told him that he was "reassigned" to the RMP. When asked why he gave the lieutenant that false excuse, the Respondent said he "panicked." He acknowledged that it was just a reflex action for him to say that and that he was not trying to hide anything, but just made a mistake. He stated that when he was officially interviewed by the Department, he also told them that he panicked and that he did not try to hide anything from the interviewers.

On cross-examination, the Respondent acknowledged that in regard to the October 26, 2007 incident and the November 1, 2007 incident, he was not being charged with being off-post; he was charged with failure to document the fact that he took personal time. With regard to stopping the MTA employee, he stated that he never obtained the name of the MTA employee, nor did he document the identification number or anything in his memo book to support that he did in fact stop an MTA employee. He stated that he traveled to another station because "when I stepped on the train, if the conductor didn't close the door, I wouldn't have wound up at the other station." But he nevertheless did not feel it was necessary to write down the person's identification.

In regard to the June 23, 2008 incident at the Jay Street station, he stated that there were no rooms at the station that were air conditioned and in order to escape the heat, he “would have to go inside the building above the station.” He did state, however, that when an officer takes personal time he is not required to contact a supervisor, but he is required to document that time in his memo book.

When asked what the reason was for him leaving the station and going to the street and into the RMP, he stated “there was something that the driver of the RMP had, that we had to exchange.” He said that he became aware that the RMP was in the street because he received a cell phone call from the driver. When asked to explain the personal nature of the exchange with the driver, the Respondent replied, “I would rather not say.” He also stated that he never told anyone prior to this trial about the exchange with the driver. He also stated that once he exchanged the item, he did not leave the car “because it was hot and the car was nice and cool.”

He acknowledged when confronted by Tolantino about what he was doing there, he told him that he was post changed by a sergeant to the RMP. He further acknowledged that he made that statement to Tolantino because he panicked and that he had already made the memo book entry changing his post.

#### PENALTY

In order to determine an appropriate penalty, the Respondent’s service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

The Respondent was appointed to the Department on June 30, 1995. Information from his personnel file was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent Plead Guilty to being off-post without permission or authority; failing to document in his activity log his taking of personal time and leaving his post to investigate an MTA employee; making false activity log entries and making false or misleading statements to a supervisor.

The Respondent testified in an effort to explain the reasons for committing the aforementioned misconduct. On August 28, 2007, he stated that he was off-post because he had made plans to meet with his daughter who was leaving town and at the last minute he was required to work overtime. He had no way of getting in touch with her, so he just left his post to meet with her. At the very least, he should have simply contacted his command to let the Department know that he needed to take some personal time. The Respondent did not take the few moments he would have needed to make the call and was off-post without permission from his command.

On October 26, 2007, the Respondent stated that he was suffering from a migraine headache. He stated that he went into a room to relax to reduce the pain. The Respondent did not notify his command nor, as he is charged, take a few moments to document his taking the personal time in his activity log. His excuse was that the station clerk knew where he was, if any problems arose.

On November 1, 2007, he investigated what he claimed was an MTA employee walking between train cars, that caused the Respondent to leave his post. Here he did not



record the identification of the employee and he failed to document the incident in his activity log.

On June 23, 2008, the Respondent decided to leave his post and sit in RMP 30-A because it was warm in the station and the vehicle was air-conditioned, without permission. In this incident, he made a false entry in his activity log, that he was reassigned to that vehicle and when questioned by a supervisor, he stated that Sergeant Schneiweis authorized his reassignment to that vehicle, knowing that he was making a false statement in his log and more importantly to the supervisor.

This Court has heard nothing in the Respondent's testimony that would tend to be of any mitigating value. Quite the contrary, the Respondent gives the distinct impression that the rules of the Department do not apply to him.

Based on the foregoing and the Respondent's service record, which indicate prior problems of this type, I recommend that the Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings. I further recommend that the Respondent forfeit a period of forty-five vacation days.

Respectfully submitted,

**APPROVED**

FEB 17 2010

RAYMOND W. KELL  
POLICE COMMISSIONER

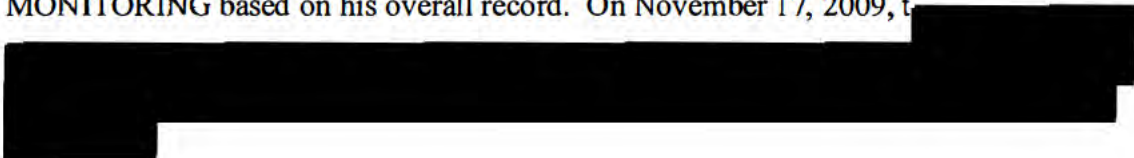
John Grappone  
Assistant Deputy Commissioner - Trials

POLICE DEPARTMENT  
CITY OF NEW YORK

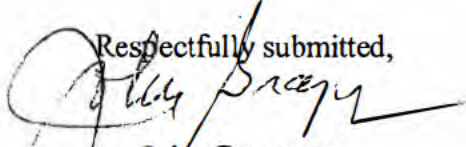
From: Assistant Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER LEONARD DYCE  
TAX REGISTRY NO. 915658  
DISCIPLINARY CASE NO. 84475/08 & 84623/08

The Respondent was appointed to the Department on June 30, 1995. The Respondent on his last three performance evaluations in 2006, 2007 and 2008 was rated 3.0, 3.0 and 3.0 respectively. The Respondent was awarded Two Meritorious Police Duty Medals.

The Respondent, on May 26, 1997, received Charges and Specifications for being absent from his assignment without permission, in which he forfeited 10 vacation days. On July 22, 2004, he was issued a Command Discipline for being off-post without permission. On September 21, 2006, the Respondent forfeited 20 vacation days for being off-post without permission and making incomplete and/or false activity log entries. On November 1, 2006, the Respondent was placed on LEVEL II DISCIPLINARY MONITORING based on his overall record. On November 17, 2009, t



For your consideration.

Respectfully submitted,  
  
John Grappone  
Assistant Deputy Commissioner - Trials





OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

CHAN

February 17, 2010

**Memorandum for:** First Deputy Commissioner  
**Attention:** Chief of Personnel

**Subject:** ADMINISTRATIVE TRANSFER OF A UNIFORMED MEMBER  
OF THE SERVICE

1. **P.O. Leonard Dyce, Tax # 915658**, was recently the subject of Disciplinary Case Nos. 84475/08 and 84623/08.
2. Separate and apart from the disciplinary process, the Police Commissioner also mandates that P.O. Dyce be immediately transferred to a Patrol Services Bureau Precinct enforcement command located within the geographic confines of Patrol Borough Brooklyn North.
3. Further, P.O. Dyce will not be the subject of any future transfer without the explicit approval of the Police Commissioner.
4. Forwarded for necessary attention.

**BY DIRECTION OF THE POLICE COMMISSIONER**

Michael E. Shea  
Assistant Chief  
Commanding Officer  
Police Commissioner's Office